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Federal Communications Commission  
Office of the Secretary

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 90.631 )  
of the Commission's Rules and )  
Regulations Concerning Loading )  
Requirements for 900 MHz )  
Trunked SMR Stations )

PR Docket No. 92-17  
RM-7827

To: The Commission

COMMENTS  
OF THE  
NATIONAL ASSOCIATION OF BUSINESS  
AND EDUCATIONAL RADIO, INC.

The National Association of Business and Educational Radio, Inc. ("NABER") by its attorneys, respectfully submits, pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, its Comments in the above-captioned proceeding.<sup>1</sup>

I. BACKGROUND

On June 26, 1991, NABER filed a Petition for Rule Making seeking to extend the loading deadlines for 900 MHz Specialized Mobile Radio Systems, the first of which will occur during 1992. As cited by the Commission in footnote 4 of the Notice of Proposed Rule Making, NABER explained the need for extending the loading dates due to: (1) difficulties in the development of suitable 900 MHz equipment; (2) delays in system development resulting from speculation in conjunction with lotteries held to select SMR licensees; and (2) impediments to the development of an effective and competitive 900 MHz SMR service that have resulted from the

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<sup>1</sup>57 FR 6570 (February 26, 1992).

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Commission limitation of licensing to the 46 Designated Filing Areas ("DFAs").

NABER recommended that the Commission extend the loading date by two (2) years, with a requirement for licensees in the top eight (8) markets to demonstrate loading of at least twenty percent (20%) at the end of the initial five (5) year license term. In response to NABER's request, the Commission has issued a Notice of Proposed Rule Making which proposes to extend the loading deadline for 900 MHz SMR licenses granted during the first two (2) years which the frequencies were available. The Commission has not proposed to require the twenty percent (20%) loading test for systems in the largest markets.

## II. COMMENTS

NABER supports the Commission's proposed loading extension. As explained in NABER's original Petition, there have been substantial delays in the effective provision of service to users of 900 MHz systems. Such difficulties were more significant than the initial equipment difficulties experienced with the initial 800 MHz systems.

At 800 MHz, many of the initial systems were constructed in the conventional mode, while many of the equipment difficulties were due to the implementation of trunking logic. Thus, while the "bugs" were being worked out on trunked systems, conventional systems were able to begin operation and flourished. At 900 MHz, many of the equipment "bugs" have been due to the narrower channel bandwidth compared to all previously constructed land mobile

equipment. As a result, there have been equipment difficulties with both repeaters and antennas. While equipment problems were being corrected, the provision of customer service was significantly slowed.

Just as significant, operators are attempting to load 900 MHz SMR Systems at a time when economic conditions have not been conducive to the sale of new mobile equipment. Thus, the growth in mobile users have been much slower than expected. The significant number of businesses which have been forced to close has placed additional strain on the growth in mobile use which had been expected.

Users in the largest urban areas, such as New York and Los Angeles, have been willing to spend additional funds for more expensive 900 MHz equipment to be able to become customers on systems without congestion. However, in markets where 800 MHz SMR Systems have not achieved full capacity, users have been reluctant to move to systems which offer less coverage and unproven equipment at a greater price at a time when economic conditions dictate caution on the part of businesses. Thus, mobile loading has been slower than otherwise could be expected.

Unlike the 800 MHz allocation of channels, where spectrum was licensed by SMR operators in the largest urban areas first and smaller areas were licensed as the need developed, the Commission assigned licenses for 900 MHz systems for 46 DFAs all at once. As a result, applicants in smaller urban areas were required to obtain licenses for the systems years ahead of when normal market

condition would have dictated a move to 900 MHz systems. Such licensees, genuine SMR operators, were forced to accelerate their plan by many years in order to ensure that they would have communications capacity after their 800 MHz systems were loaded. Thus, 900 MHz SMR licenses were issued for markets such as Birmingham, Alabama, Oklahoma City, Oklahoma and Louisville, Kentucky, where 800 MHz spectrum is readily available at a more reasonable cost.

As discussed previously, the Commission allocated and released the 900 MHz trunked SMR frequencies in the DFAs only. Because of the limited size of the DFAs, 900 MHz SMR licenses have not been issued in significant areas surrounding major urban areas. Thus, while Louisville, Kentucky may not have a large demand for 900 MHz SMR capacity for several years, Wilmington, Delaware has been deprived of 900 MHz capacity, which is vital for the many users which have a need for wide area systems connecting the Baltimore/Washington, New York/New Jersey and Philadelphia DFAs. This has further hampered the development of 900 MHz SMR systems within the major urban areas.

NABER, however, is concerned with the Commission's proposal to limit the extension to licenses issued prior to June, 1989. Licensees which received authorizations after June, 1989 in markets such as Seattle, Washington face the same difficult conditions which licensees with earlier grants. While systems issued licenses after June, 1989 will not reach their five (5) year renewal date later, the Commission's proposal may result in a licensee in a


larger market have a loading date **after** a licensee in a much smaller market. Therefore, NABER suggests that the Commission extend the relief to all 900 MHz SMR licensees.

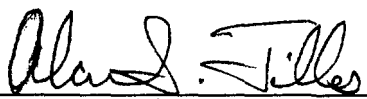
### III. CONCLUSION

**WHEREFORE**, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission amend Section 90.267 of its rules consistent with these Comments.

Respectfully submitted,

**NATIONAL ASSOCIATION OF BUSINESS  
AND EDUCATIONAL RADIO, INC.**

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